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V.

## FURTHER PAPERS

RELATING TO

## THE SLAVE TRADE:

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*VIZ.*

COPIES OF PAPERS

Relating to the *Portuguese* Brig "GAVIAŌ," and the  
*Spanish* Schooner "ANNA MARIA."

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*Ordered, by The House of Commons, to be Printed,*  
 26 July 1822.

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SCHEDULE OF  
PAPERS relating to the *Portuguese* Brig "GAVIAO," and the *Spanish*  
Schooner "ANNA MARIA."

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GAVIAO.

- N<sup>o</sup> 1.—Extract of a Letter from Commodore Sir George R. Collier, bart. and K. C. B. dated the 16th of April 1821, and addressed to J. W. Croker, esq. with one Enclosure - - - - - p. 3
- N<sup>o</sup> 2.—Copy of a Letter from Sir George R. Collier, bart. and K. C. B. late Commodore on the coast of Africa, dated the 4th of May 1822, and addressed to J. W. Croker, esq. with six Enclosures, marked from (A.) to (F.) - - p. 5
- N<sup>o</sup> 3.—Copy of a Letter from Sir George R. Collier, bart. and K. C. B. late Commodore on the coast of Africa, dated the 22d of May 1822, and addressed to J. W. Croker, esq. - - - - - p. 23

ANNA MARIA.

- Copy of Declaration of Captors of the Spanish Schooner "Anna Maria," detained by His Majesty's ship *Tartar*, in March 1821, in the river Bonny, on the coast of Africa, dated the 26th March 1821 - - - - - 25

## V.

## FURTHER PAPERS RELATING TO THE SLAVE TRADE;

VIZ.

The Portuguese Brig "GAVIAO," and the Spanish Schooner  
"ANNA MARIA."

—No. 1.—

Extract of a Letter from Commodore Sir George R. Collier, Bart. and K. C. B. dated on board His Majesty's ship Tartar, King George the Fourth's Bay, Island of Fernando Po, the 16th of April 1821; and addressed to J. W. Croker, Esq.

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THE other detained vessel is the Gaviao, from Pernambuco for Cabenda, (furnished with a royal pass to carry slaves) but interdicted from trading north of the Line, though St. Thomas is introduced into the license, which, if it means the Island, has certainly been the result of trick or connivance. The log-book of this vessel, which appears to have been kept correctly, indicates her having been at Cabenda, which I am disposed to believe, because the master states he carried soldiers from Pernambuco, and the royal pass allows her to proceed, and to receive on board at Cabenda (being to the south of the Line) 357 slaves. From the coast of Africa she proceeds to St. Thomas's Island, thence to Princes Island, and from thence to Old Calabar, for the purpose of taking on board (as the master states) palm oil.

The Gaviao had arrived a few days previous to our boats, and I understand did not intend to take a crowded cargo; she had commenced paying some of her port dues, and had, in consequence, begun slaving the day previous to her detention; and that this was the master's object, the within letter, from the native chief, will be a satisfactory proof, as three slaves, independent of any others sold by subordinate traders, had been bargained for, and actually delivered over to the master on board the Gaviao by the duke himself; that they had not been paid for previous to the capture is a circumstance lamented by that chief in a very natural way.

After the letter had been dispatched to me by the chief, I received a verbal message from him, saying that two of the three slaves he had sold to the Portuguese brig had been recovered, they having been landed from the brig while the boats were boarding, but that the third must be still on board; and it appears, that owing to the circumstance occurring in the night, the boats in mistake first boarded an English merchant ship laying near the Gaviao, which creating an alarm on board that brig, advantage was thus taken of it, and having only a few slaves on board, and a canoe alongside, the attempt was made to get rid of them, in which, with respect to the two above mentioned, the Portuguese certainly succeeded, and the sailors so employed returned to the brig when in our possession.

Whether among the eight slaves found on board the brig, the slave of the Chief Ephraim shall be one of that number, or whether he may have been disposed of in a more secure manner, must be hereafter decided; but as a Portuguese sailor was found in the brig's hold, endeavouring to force a pair of trowsers upon a slave, and this slave had neither a name, nor could he speak or understand either Portuguese or the native language of Calabar, I am inclined to believe he is one amongst those sent from the interior, and probably the identical slave sold by Duke Ephraim. In this belief, at least, he was sent on board the Thistle; and the brig Gaviao brought down the river by the lieutenant in command.

In a conversation I have since had with the master, he appeared ignorant of his having so many as eight domestic slaves on board, but on referring to the contre maestro, he said they were taken on board at Princes Island.

On a reference to her roll d'equipage, it does appear she had four domestic slaves on board on sailing from Pernambuco, whose description, however, does not answer to either of the eight mentioned, nor are there any additional number of slaves

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slaves as domestic ones certified on her roll d'équipage, which bears the proper signature of having undergone examination at Port Antonio, Princes Island. It is therefore an almost unquestionable fact, that if a part of these slaves were not procured in Calabar, they must have been since quitting the coast of Brazil, and I should hope, if I am to expect reasonable justice from the Mixed Commission, that this brig will also be considered as having not only violated her engagement, but that she has been trading in slaves, contrary to the existing treaty.

I have been more minute in this, as well as in other cases lately reported to their Lordships, because I am aware of the necessity which now exists, as I know, from past experience, the interest every slaver has in disproving the charge against his vessel, tempts them to swear to the most evident falsehoods; and it is with concern I have remarked the most extravagant assertions have been recorded in the Mixed Court as proofs of innocence.

(Enclosure in N<sup>o</sup> 1.)

To Commodore Sir George Collier, Bart. Commander in Chief of His Majesty's ships and vessels in these seas.

Sir,

I FEEL it my duty to write you, and should have very glad to have seen you up at Old Calabar. Should feel pleasure in rendering you any assistance that lay in my power. I have sent my pilot to pilot the Portuguese brig you took last night (unfortunate for me I put three slaves on board, and has not got paid for them). Should you or any of your squadron visit this place I shall feel pleasure in rendering you or them any service in my power. Had you been inside the river I should have come down to have seen you.

I am, with the greatest respect,

Old Calabar,

9 April 1821.

Your most obedient servant,

(signed) *Duke Ephraim Egambo.*

We, the undersigned, the commanders of the British merchant ships and vessels in Old Calabar river, having seen the accompanying letter from Duke Ephraim to Commodore Sir George Collier, do voluntarily declare that the same is the actual signature of Duke Ephraim, the chief of Duke Town in that river; to the truth of which we now solemnly depose upon the Holy Evangelists.

Present at the time of }  
his signing this letter }

(signed)

*Geo. Forster,* Ship *George Canning.*

*Tho' Brassey,* - *Jonathan.*

*John Burrell,* - *Jane.*

*S. C. Lyon,* - *Windermere.*

*R. E. Coupland,* - *Ottawa.*

Sworn before me, on board His Majesty's ship *Tartar*, off the bar of Old Calabar river, in Africa, this twelfth day of April 1821.

*George R. Collier,* Commodore.

Witness, *Robt Atherton.*

And we, the undersigned, further declare, that the circumstance therein detailed, of the slaves having been sent on board the Portuguese brig by Duke Ephraim, is a fact within our knowledge, two of which were landed in the bush by the Portuguese the moment they discovered the men-of-war's boats were boarding a vessel near them.

*Geo. Forster,* }

*Tho' Brassey,* }

*S. C. Lyon.* }

Ships as above.

Sworn before me (as above), on board His Majesty's ship *Tartar*, off the bar of Old Calabar river, this twelfth day of April 1821.

*George R. Collier,* Commodore.

Witness to the signatures, *Robt Atherton.*

— No. 2. —

Copy of a Letter from Sir George R. Collier, Bart. and K. C. B. late Commodore on the Coast of Africa, dated the 4th of May 1822, and addressed to J. W. Croker, Esq. with six Enclosures, marked from (A.) to (F.)

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relating to the brig  
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Sir,

Knowle Cottage, Exeter, 4th May 1822.

I BEG leave to enclose you the copy of a document I have received from the agent to the owners of the Portuguese brigantine Gaviao, purporting to be an award made by the British and Portuguese Mixed Commission Court established at Sierra Leone, amounting to 1,520*l.* 13*s.* 9*d.* for costs, damages and expenses stated to have been incurred in consequence of the seizure and detention of the said vessel; and I request you will do me the honour to submit the same to my Lords Commissioners of the Admiralty, in the hope that their Lordships may, from the peculiar circumstances of this case, refer it to the Lords Commissioners of H. M. Treasury, with their Lordships recommendation, that the seizors may be protected from all the consequences of this demand; as I trust it will appear the detention of the Gaviao was not wantonly made, but that the facts, as admitted even by the British arbitrator, Fitzgerald, fully justified the measure.

Appendix, (A.)

I regret that I shall be under the necessity of troubling their Lordships at considerable length, but the commission of arbitration at Sierra Leone having thought proper to make an award in favour of the master, to the extent which appears in the accompanying document, and payment having been demanded by the person acting in this country for the master of the Gaviao, it becomes indispensable that I should enter into a detail of the several particulars of this case; and I therefore purpose, in the first instance, to state the circumstances attending the seizure of the Gaviao, and then to offer some comments upon the award in question.

Their Lordships are fully aware of the duties intrusted to me as senior officer and commodore of H. M. ships and vessels on the coast of Africa, towards checking the illicit traffic in slaves, which, notwithstanding the treaties that have been made with foreign powers, was known to exist. And in the furtherance, therefore, of their Lordships general instructions, and in consequence of information that many vessels were constantly engaged in the traffic of slaves in the Calabar river, situated some degrees north of the Line (where such traffic is prohibited), I proceeded in H. M. ship Tartar, accompanied by the Thistle gun brig, and anchored off the mouth of that river, outside the bar, sending the Thistle, and also the boats of the Tartar, over the bar, to proceed up the river; and on the night of the 9th of April 1821, or a little before daybreak, by mistake, a British vessel was boarded by Lieutenant Marsh of the Tartar, who, on discovering his error, was directed by the master of the English ship *first* to the Gaviao, lying next his own vessel, observing she had, the day previously only, commenced her slaving. In consequence the Gaviao was boarded by the boats of the Tartar and Thistle.

On boarding her much confusion appeared; and upon an officer descending into the slave-hold of the Gaviao, a Portuguese sailor was discovered in the act of dressing a slave in a jacket and trowsers, in order to give him the appearance of one of the crew; but the man evidently was a slave, and it seemed that he had recently been put on board that vessel.

The alarm given by Lieutenant Marsh boarding the British vessel instead of the Gaviao, in the first instance, gave the master of the latter the opportunity of removing two of three slaves he had on board, which he landed, as afterwards appeared, in the bush, not more than fifty yards from the vessel.

So soon as the Gaviao was secured, the boats were taken by Lieutenant Marsh in pursuit of another vessel, and in two days the Gaviao joined the Tartar.

Unfortunately, as it would now seem, but certainly with very good intention, the officer in charge of the Gaviao on her capture, for security, removed the slave, which the Portuguese was seen dressing as an European, to the Thistle.

From the Thistle this slave was again removed to the Tartar, and he was examined at Sierra Leone, though not officially, because the Mixed Commission Court would not interfere until the arrival of the Gaviao; and I believe, that in fact, this slave was never examined by the Court at all. However, his not speaking a word of Portuguese, or the Calabar language, appeared to satisfy every one that he had been brought from a distant part of Africa, and that he could not be a domestic slave, and that he was, without doubt, the third slave purchased by the master of the

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the Gaviao of the Duke Ephraim (a Calabar chief) and afterwards claimed by him of me.

As the tornados were violent, and to vessels at anchor off the bar dangerous, it became necessary to quit the anchorage without delay. In the interim, however, the commanders of all the British ships trading in palm oil, and belonging to Liverpool, came down the river to bear testimony to the fact of the Gaviao having commenced slaving.

They likewise brought a letter to me from the king or chief, Duke Ephraim, stating the same fact, but observing, that for three slaves sold to the Gaviao the preceding day, payment had been prevented by the seizure of the vessel, therefore lamenting her capture, and asking restitution of the slaves.

This letter was signed by the native chief himself, who writes and reads the English language; it was verified by the oaths of the masters of the British ships who had witnessed the writing, and it was delivered by me into the court of the Mixed Commission at Sierra Leone, as was also another paper, being the affidavits of the same masters, deposing to the fact before stated, of the Duke Ephraim having sold and sent on board the Gaviao three slaves the day previous to her capture.

Another boat afterwards brought a verbal message from the same chief to me, saying, that two of the three slaves sold to the Gaviao had since been recovered, having by some means been landed in the night in the bushes opposite Duke's Town, and brought to him by some of the people, but that the *third* slave must have been left on board. This confirmed the opinion entertained previously, that the slave found in the hold, and in the act of being dressed as an European sailor, was one of the identical slaves sold by Duke Ephraim.

The Gaviao was under Portuguese colours, and by her papers it appeared that she had sailed from Pernambuco a few months before, with an ostensible destination, Benguela, a port many degrees *south* of the Line, thence to return with a cargo of slaves to Pernambuco.

The crew of the Gaviao appeared by the muster roll to be the usual number given to slaving vessels; and upon the muster roll four slaves were noted as domestic slaves, being so many in addition to her crew, certified as such by the authorities at Pernambuco, for it is not allowable by the laws of Brazil, nor in the other colonies of Portugal, for any vessel to embark even domestic slaves without their description being minutely given in the muster paper, or roll d'equipage, with the view to prevent runaway slaves being secreted on board ship.

In addition to those above mentioned, there were on board the Gaviao five other slaves not noticed in the roll d'equipage, nor certified on leaving either St. Thomas's or Princes Island.

It further appeared by the log-book of the Gaviao, that the vessel had taken a cargo of slaves from Benguela, the port mentioned in her passport, south of the Line, to the island of St. Thomas, and instead of returning to Pernambuco, as her royal licence engaged she should, with her cargo of slaves, she proceeded, after touching at St. Thomas's and Princes Island, and otherwise disposing of her slaves, direct to the river Old Calabar, where, being some degrees *north* of the Line, she is especially interdicted approaching, as well by her licence as by treaty; she, however, commences her traffic not only for a second cargo, but in a forbidden latitude, and in contravention of the express conditions on which she is by her own government permitted to trade.

Although I had removed to the Tartar a considerable number of sick slaves from the vessels seized previously to the Gaviao and Constantia, those in the latter vessel becoming from their crowded state very sickly, I availed myself of the Gaviao, and removed nearly seventy on board of her, putting her in charge of an officer and sufficient crew, supplied with provisions for two months both for the crew and slaves, with orders for Sierra Leone, where she arrived on the 17th of June, some weeks after the Tartar and Thistle.

The very protracted voyage of the Gaviao gave me considerable uneasiness, and I remained as long at Sierra Leone as their Lordships orders would permit, waiting her arrival; after sailing I fell in with her off Sierra Leone river.

Previously however to my sailing, I applied to the Mixed Court to examine such of the Gaviao's crew as were landed from the Thistle, satisfied that whenever they should mix with the master and supercargo, that they would be instructed the sort of evidence they should give, and that the evidence of each would be the same.

This act of justice to the seizors was distinctly refused, though I have learnt it is practised in similar cases in the court here; and though the Portuguese commissioner

missioner told me he saw no objection. The British arbitrator, Fitzgerald, in declining to take these examinations, contended that it was not proper to do so until the master and other officers of the *Gaviao* should arrive. But I cannot forbear digressing for one moment, that I may contrast this decision with the same person's conduct in the case of the *Anna Maria*.

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The master and other officers of the *Anna Maria* were removed for security to the *Tartar*, on suspicion of their being English subjects, and on their threat to blow up the vessel.

I wrote to an officer of the Mixed Court, requesting proceedings in the case of the *Anna Maria* might be delayed until my arrival, as I thought I should be able to show that she was a pirate, and one I had their Lordships instructions to look for; but although the Spanish judges were absent, and the officers required by the treaty to be examined, absent also, my application was disregarded, and the vessel was condemned by the Mixed Commission in the shortest possible time.

On arrival of the *Gaviao* she was libelled in the Mixed British and Portuguese Commission Court, and on the 5th July that Court decreed the property to be restored.

The Court, however, must have been satisfied of the intention of the master to have carried on illicit traffic, inasmuch as although the property was restored, the Mixed Commission directed the water casks, platform, copper boilers, and several hundred pairs of slave irons to be landed, appraised and sold, in order to prevent the *Gaviao* carrying on any traffic in slaves whatever.

It is my duty further to state, that although not any damages were decreed to the master upon restitution of the *Gaviao*, yet upon some representation made subsequently to the decree, and long after he was in possession of his vessel, the Mixed Commission Court thought proper to open the case again, and to entertain a demand; and although the *Tartar* had several weeks sailed for England when it was so evident that calling upon the seizers to rebut such a charge at three days notice was no other than mere mockery, as not the most slender prospect of my being able to know the circumstance could thereby be afforded until the claim was decided. Yet this proceeding was adopted; and in the entire ignorance of the seizer, of this proceeding, the Mixed Court awarded, on the evidence of a Portuguese slave master and his crew, damages to the amount of 1,520 *l.* 13 *s.* 9 *d.* when, by the arbitrators admission, the vessel was fitted for no other object than slaving, and was found in a latitude she was forbidden to approach.

The award does not state the specific items of which it is formed, but having received the accompanying document from Sierra Leone, I find that the following allowances have been made, viz.

Appendix, (B.)

1st.—Two-thirds of a charge of 105 *l.* 3 *s.* 9 *d.* made for live stock, and cabin stores stated to have been consumed by the officers and men of the capturing detachments during their stay on board, and at the cabin table during the passage to Sierra Leone, 97 *l.* 17 *s.* 6 *d.*

2d.—The sum of 249 *l.* 13 *s.* 3 *d.* is allowed for the whole tonnage of the vessel, being 143 tons, from the 10th April to the 19th June, both days inclusive, being at the rate of 15 *s.* a ton a month, 249 *l.* 13 *s.* 3 *d.*

3d.—The sum of 74 *l.* 2 *s.* is allowed for the subsistence of the slaves on board the *Gaviao* during the passage to Sierra Leone, being at the rate of 1 *s.* a day each man, 74 *l.* 2 *s.*

4th.—About one-fourth of a charge of 199 *l.* 5 *s.* 9 *d.* is allowed for loss and deterioration of sails, canvas and rope, amounting to 50 *l.*

5th.—The sum of 288 *l.* is allowed for the demurrage of the *Gaviao*, such demurrage to be calculated from the 18th day of August, the court day on which the seizers were cited by monition to appear and show cause against the claim, until the 5th day of October, the day of the decision in this case, making forty-eight days, which being computed at 6 *l.* for each day, amounts to 288 *l.*

6th.—The sum of 493 *l.* 7 *s.* 10  $\frac{1}{2}$  *d.* is allowed for alleged abstraction of the cargo whilst the same was in the possession of the seizers, 493 *l.* 7 *s.* 10  $\frac{1}{2}$  *d.*

7th.—The sum of 223 *l.* 0 *s.* 3  $\frac{1}{2}$  *d.* is allowed to the master of the *Gaviao* for abstraction of the goods belonging to his own private adventure, 223 *l.* 0 *s.* 3  $\frac{1}{2}$  *d.*

Previously to my making any specific observations on each of the seven preceding items, I beg to call their Lordships particular attention to that part of Mr. Fitzgerald's award, which states, that "In the considerations connected with the judgment an opinion was intimated by the judges that the claimant was not entitled to the demurrage provided by the eighth article of the Regulations of the Mixed Commission, inasmuch as he had *voluntarily* placed himself in a situation highly reprehensible



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*hensible*, and likely to invite seizure, being found in Calabar river, a noted station of illegal Slave Trade, with apparent intent to trade for slaves, his vessel being professedly fitted out for a slave trading voyage, and having on board several negroes, newly embarked at St. Thomas's and Princes Island, who, although adjudged to have been legally taken on board, must be allowed to have furnished strong ground for suspicion of illegality."

The declaration of this opinion was however deferred for further advice, no claim for demurrage or other compensation being then before the Court.

On the 16th July it is stated that the master preferred a petition for a commission of survey, having found that the cargo and stores, and the sails and rigging were deficient, and that the latter had been cut. Accordingly, on the 23d a commission issued, a survey took place, and a report was made of the condition of the hull, sails and rigging, and of the quantity on board; but no valuation or sum, either of damage or otherwise, appears by this report to have been mentioned. Yet on the 28th of July the master is allowed to give in an account of damages, which is entertained by the British commissioner of arbitration, and as far as appears, decided by him, for their Lordships will perceive that his name only is prefixed to the document.

I had no intimation whatever, either of the charges thus made, or the least opportunity afforded me of disproving any of the items. It appears that a monition issued against the seizors on the 14th of August, between two and three months after I had quitted Sierra Leone for England, (under the express orders of their Lordships) citing me to appear on the 17th, only three days afterwards; and yet from that period until the 13th of October was consumed in making up this award; and in the difficulty of comparing Portuguese papers, containing an account of what the master stated to have originally formed his cargo, with English papers containing accounts of goods which remained on board the vessel. Offering, in apology for the delay, the slave master's want of health, his ignorance of the English language, and of the forms of the court of Mixed Commission.

Of the slave master's want of health I cannot judge; but I can positively state that the person who presented himself to me as the captain of the *Gaviao*, spoke the English language very distinctly, and his ignorance of the forms of the court of Sierra Leone could not be so great as might be presumed, as he observed to me he had before been captured and his vessel condemned by the authorities of that colony. In addition, I would remark, that he had his own commissioner to appeal to, a gentleman I always found very active, intelligent and zealous in behalf of his countrymen.

Whether the amount of this award is intended to be made against the seizors generally, against myself as the senior officer, against Lieutenant Marsh the actual seizor, or against H. M. Government, does not appear; but I submit that it is quite a novel mode of proceeding to award damages against any party without affording the opportunity to rebut and explain the charges so made.

I submit that it cannot be intended to be made as against me, inasmuch as the commissioners appeared so sensible of the intentions of the master of the *Gaviao*, that they felt themselves justified in exceeding the authority given by the treaty, so far as to direct the water casks, beyond the number necessary for the crew, to be landed, and also the boilers, false decks, slave irons, and other articles of outfit for the Slave Trade to be removed and sold, in order to guard against a *shipment of slaves on the voyage down the coast*.

And it is particularly worthy also of remark, that Mr. Fitzgerald in his award, states "that it was thought expedient at the outset to pronounce explicitly upon the want of sufficient title to demurrage down to the date of restitution;" thereby, as I humbly submit, establishing most distinctly that the vessel was seized justifiably; and that I should not have discharged the duty which I was intrusted with on the coast of Africa, respecting the illicit traffic in slaves, unless I had sent the vessel into port for adjudication, and thus prevented her pursuing her nefarious traffic, which had already commenced, and would otherwise have been consummated.

In regard to the first item of 97 *l.* 17 *s.* 6 *d.* allowed to the master of the *Gaviao*, for his stock and cabin stores, I am at a loss to conceive how such a sum could be allowed, provisions having been sent for the officers and crew of the *Tartar* and *Thistle* for two months, nor is it to be believed that such a vessel, and in such a port, could have had articles of that description to even half the amount which is allowed. Mr. Fitzgerald could have had no other reason than the one he assigns, viz. that it was two-thirds of what the man asked.

The letter of the prize master accompanying this statement, will show what the cabin stores expended were; and the admission of the very trifling articles mentioned by the arbitrator (Fitzgerald) is, I presume, an explanation of that part of his award which states that the prize master did acknowledge that some of the stores were expended. The next item is an allowance of 249 *l.* 13 *s.* 3 *d.* for tonnage of the vessel, at 15 *s.* per ton per month, in consequence of her having been employed as a transport to convey part of the slaves seized by the Tartar and Thistle; and the third item of 74 *l.* 2 *s.* for part of the subsistence of the slaves, come under the same observation.

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Appendix, (C.)

On these two items I beg to observe, that the only doubt which I had of the vessel being liable to condemnation, was on account of my inability to prove that more than *one* slave was on board when captured, and not *slaves*, as required by the treaty, and this doubt arose from a discussion that had taken place on that point at Sierra Leone; and therefore I recommended, in the event of restitution being decreed, that the master should be allowed such a compensation for the conveyance of the slaves as might have been paid for the hire of a transport engaged in the like service, the urgency of which would I trust, in the opinion of their Lordships, have justified my employing any vessel that might have offered.

In regard to the fourth item of 50 *l.* allowed for deterioration of sails, canvas and rope, I have no specific observation to make beyond the notoriety, that in payment of freight the wear and tear of every article belonging to the ship is invariably included, and I cannot suppose any reason for adding this charge.

The next item is an allowance of 288 *l.* for demurrage, from the 18th August until the 5th October, at which lengthened period the arbitrator Fitzgerald thought proper to make his award; and here I must observe, with some astonishment, that any allowance whatever should have been made.

The Court decrees the ship to be restored. On the 25th June the Marshal of the Court at Sierra Leone took possession of the Gaviao; on the 5th July the master received her from him; and Mr. Fitzgerald, in his award, giving compensation for matters arisen subsequently to the restitution, and over which I had no control, says, that the delay is to be attributed primarily to the tardy and imperfect manner in which the master placed his case before the Court; and yet contrary, as I submit, to every principle of justice and equity, is this master to be rewarded by the payment of 288 *l.* for a demurrage of his vessel, detained solely at his own instance and that of the Mixed Commission.

And it is worthy of remark, that the ground of giving this demurrage is stated by the British arbitrator, Fitzgerald, to be founded on the decision of the present Lord Stowell, Judge of the Admiralty, on two cases; viz. the *Correo Maritimo*, and the *Zeestar*; when, by a reference to those cases, nothing can be more opposite than the decisions in those seizures, compared with this case. They were both captures improperly made, and the captors detained them a length of time before they *consented* to restitution; and the Court, considering the whole of those circumstances, decreed demurrage to be paid for the detention prior to the restitution; but none was allowed for any time the vessel was detained subsequently.

The sixth and seventh items are as follow; viz.

	£.	s.	d.
For abstraction of the cargo, as it is called - -	493	7	10 ½
D <sup>o</sup> - - - of goods, the private adventure of } the master - - - - - - - - - - - - - - - }	223	-	3 ½
	£. 716	8	2

It seems this allowance has been made by comparing the goods which remained on board the vessel, with the invoice of goods shipped at Pernambuco; a more improper or unjust mode of assessing, either against a seisor or H. M. Government, any sum, cannot well be imagined; particularly when it is considered that the master states, by his log-book and papers, that he had been at a port south of the Line, and had there *bartered* for a cargo of slaves, and had commenced bartering in the river Calabar.

It is true that a small part of the cargo was used under the following circumstances, but which would not altogether amount to more than 40 *l.* or 50 *l.*

A demand was made by the pilot and Duke Ephraim's head man, named Yellow Duke, for some compensation for their loss, and non-payment for services performed to the brig Gaviao previous to her capture; and upon a reference to the masters of the British ships lying in the river, they represented, that unless some compensation

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compensation was made, their ships and persons would be affected, and that they should be prevented quitting the river; and that if the pilots and chiefs were paid what was due to them, much benefit might result by preventing the ill-will of the natives, who would otherwise, on the British men of war leaving the coast, retaliate, or even commit some act of hostility hereafter upon a man of war's boat, when occasion should offer.

Under these circumstances a recompense was made by some cotton stuffs (taken from the remains of two bales which were found open on board the *Gaviao*), as the customary present made by slavers and other vessels, upon their arrival at or departure from any of these rivers.

From among the cottons in the two bales above mentioned, thirty pieces of white coarse cotton, valued by the masters of the British and American ships lying in the river, at five or six dollars the piece, and as many of coarse handkerchiefs, valued at one or two dollars the piece, were given in liquidation of the general claim for harbour dues to the Chief and Yellow Duke, as the principal pilot; this was done with the knowledge of the master of the *Gaviao*.

Two leaguers of arrack, or what is called in the Brazils *aqua ardente*, were observed on the deck of the *Gaviao*, they were found nearly half empty, and had been broached by the Portuguese, on the *Gaviao*'s first entrance into the river of Calabar, for the purpose as well of trade as to make occasional presents to the natives coming on board, to assist in navigating the vessel, and to obtain information of British ships of war, and also for attendance upon the Portuguese slavers; a quantity of spirits being thus usually distributed by the slaver to encourage trade; that is, the early bringing of slaves to the market, and not unfrequently in part payment of those employed to collect them.

The casks of spirits had each a spigot in their heads; and I admit, that as the weather was very bad, a very few gallons from them might, in possibility, have been taken by some of the sailors of the *Thistle* and *Tartar*; but that quantity must have been very small indeed, since the number of men left with the boat, in charge of the *Gaviao*, would not have exceeded from sixteen to twenty, and the access to this spirit was not beyond two or three days at the farthest, since at *Fernando Po*, where the *Tartar* sailed for after being joined by the *Gaviao*, a more minute investigation took place, and as there were seven or eight full leaguers of *aqua ardente* on board the *Gaviao*, the whole was removed for safety to the *Tartar*; and on my arrival at *Sierra Leone*, the same were delivered over to the registrar of the Mixed Commission Court, but whether these form any part of the charge for loss of cargo, or are credited in any manner in the account, I have no knowledge whatever.

The letter of Mr. Hannah, the prize master (already noticed as Appendix C.) gives a very clear, and I believe, a very honest statement of the cargo, stock and private adventure of the master; and I beg their Lordships reference to it.

Appendix, (D.)

The conduct of Mr. Walsh, as the captain's agent, having been freely commented on by the British arbitrator, I have taken the liberty of attaching to this statement copies of letters from Mr. Walsh, who acted for me at *Sierra Leone*; but whose interference was forbidden by the Mixed Commission, until his interference became useless by their having restored the *Gaviao*; and the calling upon him to produce evidence in opposition to that of the Portuguese, when these same commissioners entirely disregarded that of Mr. Hannah, the officer in charge of the vessel, appears to me no other than a mere show of justice.

They must have known, or rather the arbitrator Fitzgerald, who seems the person deciding all questions of doubt, and settling all those of damages, that Mr. Walsh could do no more than resort to Mr. Hannah, as an evidence who, as he states, had repeatedly offered himself during the trial, but who was never examined at all until some weeks after the *Gaviao* was restored and delivered up to the Portuguese.

Of my own knowledge I can state, that all interference of either seizer or agent, to the time I left *Sierra Leone* in June last, was forbidden, and I was myself ejected from the Court by one of the British commissioners, and Mr. Walsh summoned by the Court to appear before Lieutenant Governor Grant, for interference as my agent in the case of the *Donna Eugenia*, seized nearly at the same time the *Gaviao* was.

Appendix, (E.)

The affidavit of Captain Marsh (late first lieutenant of the *Tartar*) the officer who seized the *Gaviao*, contains some information in support of the grounds of the seizure

## THE SLAVE TRADE.

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The affidavits of some of the masters of the Liverpool ships in the Calabar river, at the time the *Gaviao* was seized, will show her real character.

If their Lordships shall be pleased to take a view of all the circumstances of this seizure, I humbly trust it will appear no vessel was ever seized more justifiably; and that the damages awarded are in truth no better than a reward or bounty to a person who had violated every engagement he had entered into; for that the master of the *Gaviao* was found where he was expressly forbidden, cannot be questioned; and that the equipment of his vessel in all respects showed her object to be a cargo of slaves, the British arbitrator, Fitzgerald, by every sentence of his reasoning, I think, unreservedly admits. I have, &c.

(signed) *Geo. R. Collier,*  
late Commodore on the Coast of Africa.

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Appendix, (F.)

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Appendix, (A).

British and Portuguese Court of Mixed Commission, Sierra Leone.

In the case of the Portuguese brigantine *Gaviao*, Jose Bento de Macedo, master, seized and detained by His Majesty's ship of war the *Tartar*, commanded by Commodore Sir George Ralph Collier, Bart. K. C. B. under a charge of being engaged in the illicit traffic in slaves to the north of the Equator.

THESE are to certify, that the Portuguese brigantine, *Gaviao*, her cargo, tackle, apparel and furniture, were prosecuted in the British and Portuguese Court of Mixed Commission, established at Sierra Leone for preventing the illegal traffic in slaves, by Commodore Sir George Ralph Collier, Bart. and K. C. B. under a charge of being engaged in the said illegal traffic; and that it appeared to the majority of the said Court, that the said Sir George R. Collier did not adduce any evidence to prove that the said brigantine was so engaged in the illegal traffic in slaves. And that it further appeared to the said majority, that the said Jose Bento de Macedo did adduce sufficient evidence to prove that he was not engaged in the said illegal traffic. Wherefore, conformably to the provisions of the treaty between His Majesty and his Most Faithful Majesty the King of Portugal, the said brigantine, *Gaviao*, her cargo, tackle, apparel and furniture, were, on the fifth day of July in the year of our Lord one thousand eight hundred and twenty-one, pronounced by the said Court, to belong as claimed, and the said Court decreed the same to be restored to the said Jose Bento de Macedo the claimant, for his own use, and for the use of Elias Wilho Centra, of Pernambuco, the owner and proprietor of the said brigantine, together with the costs, damages and expenses incurred in consequence of the said seizure and detention.

And these are further to certify, that the sum awarded by the said Court to the said Jose Bento de Macedo, the claimant aforesaid, in consideration of the costs, damages and expenses incurred through the said seizure and detention, amounts to one thousand five hundred and twenty pounds, thirteen shillings and nine pence sterling. All which matters and things more fully do appear by the records of the said Court, and for which three certificates of the same tenor and date have been granted to the said Jose Bento de Macedo, to serve as one.

In faith and testimony of the truth whereof, we have hereunto set our hands, and affixed the seal of the said Court of Mixed Commission, at Freetown in the colony of Sierra Leone, this twenty-seventh day of October in the year of our Lord one thousand eight hundred and twenty-one.

*E. Gregory,*      *Joao G<sup>mo</sup> Allavillo.*  
*Edw<sup>d</sup> Fitzgerald.*

(Entered) *James Woods,*  
Acting Registrar, Mixed Commission.

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Appendix, (B.)

Case of the *Gaviao*. Claims for Compensation.

ON the 5th July the Portuguese brig *Gaviao*, detained by Commodore Sir George Collier on a charge of being engaged in illegal Slave Trade, was liberated by a decree of the British and Portugese Mixed Court.

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In the considerations connected with the judgment, an opinion was intimated by the judges, that the claimant was not entitled to the demurrage provided by the eighth article of the Regulations for the Mixed Commissions, inasmuch as he had *voluntarily* placed himself in a situation highly *reprehensible*, and likely to invite seizure, being found in Calabar river, a noted station of illegal Slave Trade, with apparent intent to trade for slaves, his vessel being professedly fitted out for a slave trading voyage, and having on board several negroes newly embarked at St. Thomas's and Princes Islands, who, although adjudged to have been legally taken on board, must be allowed to have furnished strong ground for suspicion of illegality.

The declaration of this opinion was however deferred for further advice, no claim for demurrage or other compensation being then before the Court.

On the 10th July a paper was given by the master, conveying an imperfect statement, which he was desired to amend, and to render more intelligible, by filing a regular claim; specifying the amount of compensation to which he considered himself entitled, for himself and for the owners severally, with the ground of his demand, and the particulars distinctly stated, and the charges reduced into English money.

On the 16th of July a formal petition was presented, stating that the claimant, on resuming the command of the vessel in pursuance of the decree of restitution, found that the cargo and stores thereof were deficient, and also part of the sails and rigging, and the remainder thereof much cut and damaged; whereupon he prayed that a survey should be held upon the said brig, her cargo, stores, tackle, furniture and apparel, and that a valuation and a report thereof be made, in order that the damage sustained by the petitioner and his owners may be more fully ascertained.

A commission issued accordingly, and a survey took place on the 23d July. The report upon this petition stated the condition of the hull, sails and rigging, and the quantity and description of the goods actually on board, without any valuation.

On the 27th July the petitioner prayed a copy of the report. On the 28th of July, a further petition of claim was filed, alleging damages to the amount of 3,341*l.* 13*s.* 6½*d.* exclusive of freight, demurrage, costs, charges and expenses; this petition was accompanied by specific accounts in detail, containing particulars of alleged damages to the same amount.

In proceeding to consider the particular head of charge composing this amount, it was thought expedient at the outset to pronounce explicitly upon the want of sufficient title to demurrage down to the date of the restitution; and in disallowing demurrage to pronounce also for the disallowance of a sum of 1,622*l.* 10*s.* included in the total amount of compensation claimed under the head of wages of the master, the officers and the crew of the vessel; comprehending with those now on board, the others who had previously left the vessel on the voyage, for whose wages specific charges were made down to the date of their respective departures.

The Court was of opinion, that all charges incident to the vessel are comprised under the general head of demurrage, and are to be allowed or disallowed under that head.

The first object on the face of the accounts presented with the claim, is a demand of 1,218*l.* 4*s.* 0¼*d.* as compensation for abstraction and deterioration of cargo, as well in the general stock of the owner as in the private adventure of the master.

In order to enable the Court to understand this matter more distinctly, the commissioners had, upon the petition of the claimant, directed that a survey should be made for the purpose of ascertaining the quantity and description of the goods now on board, and the condition of the same, and that an inventory, containing the particulars desired, should be returned into Court with all convenient expedition.

The Court gave direction at the same time that the master should be ready to establish, by competent proofs, the embarkation of the goods particularized, the state of the same at the time of the seizure of the vessel, and the time and manner of the abstractions for which he required to be satisfied.

The inventory returned, in consequence of the prior part of this order being written in English, was found not easily to admit combination with the original inventories written in Portuguese, so as to afford the means of ascertaining, with any degree of accuracy, what was actually on board, and what was deficient,  
although

although it was apparent that a great general deficiency had taken place. A translation of the original inventories or invoices became necessary to the desired facility in this matter, and was prepared accordingly. The investigation of this part of the case was, in consequence of these impediments, much protracted and often postponed; it was not until the close of the final settling that any decisive opinion could be found upon it.

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Much difficulty and inconvenience was suffered by the Court in pursuing the investigation, for the want of an authorized person, who might furnish counter statements on the part of the captors, or bring forward opposing evidence, or to whom reference may be had for the information desired by the Court upon the several points which arose in the case. The agent who acted for the captors, at the commencement of the former part of the case, Mr. John O'Neill Walsh, having by a letter addressed to the registrar, dated the 29th of June, declined all further interference, left the colony immediately after, without appointing any representative.

On the 14th of August a monition was issued, calling on the captors to appear on the 17th, or on the next following court day, and to show cause why the costs, damages and expenses, occasioned by the detention of the Gaviao, should not be allowed.

On the 16th of August, Mr. Hannah, late prize master of the Gaviao, addressed to the acting registrar a copy of the instructions given to him by Commodore Sir George Collier, the captor, on sending him to take charge of the vessel on the 17th of April. Some accounts of provisions belonging to the Gaviao, expended for the subsistence of a number of negroes put on board that vessel, for a passage to Sierra Leone, were transmitted at the same time; but Mr. Hannah, when he was called before the Court to give information, said he was not authorized to act in any way on behalf of the captors.

No other agent appeared, nor could any one authorized to act in that capacity be found in the course of the inquiries suggested by the Court for that purpose.

The only evidence available on the part of the captors, was obtained from Mr. Hannah, in the course of special interrogatories put by the commissioners, according as they found reason to think it likely that he might possess a knowledge of the facts to be ascertained.

The Court having, by repeated examinations, acquired all the information that appeared to be attainable in the case, came to the following determinations upon the several items of claim presented to consideration.

A charge of 165*l.* 3*s.* 9*d.* was made by the claimant for live stock and cabin stores consumed by the officers and men of the capturing detachments during their stay on board, and at the cabin table during the passage to Sierra Leone.

It appeared by the testimony of the master, Macedo, and of the clerk, Barabino, that very great devastation was committed by the boats crews of the men of war during the passage down the river Calabar; and although Mr. Hannah, the prize master, gave the Court reason to think that this statement was greatly exaggerated, he admitted that for about four days two boats crews, comprising four officers and from 36 to 40 seamen and marines from the Tartar and Thistle, were on board the Gaviao, and subsisted upon the live stock and stores of that vessel, their own supplies being exhausted; and in some particular items Mr. Hannah confirmed the statement on the part of the claimant.

The Court, on considering the whole of the matters disclosed in evidence, agreed that two-thirds of the amount claimed would be a fair compensation. The shipment and the actual state at the time of capture, having been previously established in proof, a sum of 97*l.* 17*s.* 4*d.* being two-thirds of the whole amount, was decreed accordingly.

The captor having put on board the Gaviao at Fernando Po, for conveyance to Sierra Leone, a number of slaves belonging to the Portuguese brigantine Constantia, taken at the same time, with a crowded cargo of slaves, had, in his instructions to the prize master, given especial directions framed with a view to the eventual restitution of the Gaviao, which the doubtful circumstances of the case led him to apprehend; in which directions it was particularly desired that the prize master, in the event of such restitution, should address himself to "the governor or chief justice of Sierra Leone," and present a copy of so much of the said order "as relates to the care and attention required of him to the stores and provisions of the Gaviao, in order that they may recommend a suitable compensation to the master for the use of the brig, as a transport in conveying the captured slaves from the

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Bight of Biafra to Sierra Leone." The adjustment of this compensation was brought under the consideration of the Court.

The agent for the captors returned to the colony on the 13th of September, but still abstained from interfering in the cause; and the Court was informed that he refused to attend to a special application made on behalf of the claimants, touching the freight proposed by his principal.

The Court understanding that no compensation of that kind had been otherwise made, ordered, upon special petition previously filed, that the registrar, with the aid of two competent persons, should ascertain and report to the Court the amount of compensation reasonably due for that transport service.

The registrar took to his aid Mr. Geo. Nicol and Mr. Geo. Rendall, merchants, two of the aldermen of Freetown, and, upon their opinion, reported that 15s. a ton for each month, for the whole tonnage of the vessel, being 143 tons, from the 10th of April to the 19th of June, both days inclusive, amounting to 249*l.* 13*s.* 3*d.* is a fair compensation. That sum is allowed for the transport service performed in the manner stated.

The prize master having stated that a partial supply of provisions for the slaves above mentioned had been taken from the provisions of the Gaviao, during a certain number of days, after which those slaves became wholly dependent on the Gaviao, and subsisted entirely on the supplies of that vessel, it was ordered, that a remuneration should be made at the rate of 1*s.* a day for each man, for the total subsistence, until it ceased by the landing at Sierra Leone, or by casualty during the passage. The partial supply previously taken being of small amount, the value of which is not easily to be calculated, it is considered that it may be supposed to be comprised under the general heads of compensation already decreed for stock and provisions. The sum reported as due, and consequently decreed to the claimant for subsistence of slaves, is 74*l.* 2*s.*

A charge of 199*l.* 5*s.* 9*d.* is made for loss and deterioration of sails, canvas and rope; upon this head, the prize master states that the sails and rigging were in very bad condition when he took charge of the vessel; that they were several times repaired by him on the passage, that about six yards of one piece of the spare canvas was used in one instance for the purpose of these repairs, and that the remainder, consisting of several bolts, was left on board. The sails and rigging altogether were, he says, left in better condition than he had found them. He admits that an anchor charged at 32*l.* and a bass cable attached to it charged at 11*l.* were lost in the harbour of Freetown. A few buckets were also lost.

An allowance of 50*l.* is given on this head, being about one-fourth of the amount claimed.

In weighing the evidence of Mr. Hannah with that of the master, the Court always considers that one may under-rate and the other may over-rate.

The Court having taken into its consideration the length of time which has elapsed since the general claim for compensation of losses and damages sustained by the detention of the Gaviao has been brought under investigation, laments that the deficiencies of the parties should have raised such an accumulation of charges which might have been used to furnish the Court with the means of forming an earlier judgment.

The Court is of opinion that the delay is to be attributed primarily to the tardy and imperfect manner in which the master placed his case before the Court.

Although disposed to make all due allowances for a stranger, ignorant of the language of the country, and of the course of its legal proceedings, and for his inability through pecuniary difficulties to provide himself in proper time with legal assistance, being moreover at times disabled by sickness, still the Court cannot take from these circumstances any reason to induce a determination to charge the opposite party with the consequences of his deficiencies or of his misfortunes, were the causes of the protracted investigation of the claim, the burthen of the consequent charges must rest on himself.

But as it has been clearly proved that without taking the immediate and necessary effects of the capture into account, certain wrongs have been committed, as the abstraction of trade goods of the owner's cargo and of the master's private adventure; and certain acts have been done by the captors which, however warrantable under the circumstances, were yet attended with effects which must be considered in the nature of wrongs, at least so far to give a fair title to compensation for all consequent as well as all actual damages connected with them; and in this view are to be regarded

regarded the employment of this vessel as a transport for the conveyance of the slaves of the *Constantia*, and the use of the provisions of this vessel for those slaves: the Court is of opinion, that except in so far as the deficiencies on his own part have debarred him, the claimant should be held entitled not only to a just indemnification on these heads, but further, to all costs, damages and expenses incidental to the delay of the decision, and to the adjustment of the satisfaction due to him on these heads.

If he had, immediately after the restitution of the vessel, brought forward those claims in a clear, intelligible and satisfactory form, and as soon as conveniently might be afterwards, established his allegations by proofs, so far as his means of proof would have enabled him, the Court would have held him entitled to the demurrage, according to the scale stipulated by the eighth article of the Regulations for the Mixed Commissions, from the day of the restitution to the day of final decision. Inasmuch as deficiency is attributable to him on this head, the Court considers that this demurrage should be withheld; but as the charges of the delays and difficulties to which the Court has been subjected in respect to the means of forming its decision, should not fall upon him further than those delays and difficulties were caused by him, it is necessary to inquire and to determine at what time the charge should be removed, where it would then with greater propriety be placed.

It has already been observed, that much difficulty and inconvenience were suffered by the Court in consequence of the desertion of the cause by the agent for the captors, and by the want of the information due to the Court on their part; the commissioners being left without any means of checking the statements and demands of the claimant by counter statements or by opposing evidence, unless so far as the commissioners have themselves been enabled to collect such evidence from the prize master upon some particular points. The Court is of opinion, that for a certain portion of the time occupied in the investigation of the case, the expenses usually chargeable under the general head of demurrage, are justly to be placed against the captors, as occasioned by the desertion of their agent, and the deficiency of the information due to the Court on their behalf. In fixing the time when this charge upon the captors is to commence, the Court referred to the cases of the *Correo Maritimo*, 1st vol. Robinson's Reports, p. 287, and of the *Zeestar*, 4th vol. Robinson's Reports, p. 71, in which cases demurrage was granted by Sir William Scott to claimants, for "want of due and necessary diligence on the part of the captors."

The Court decrees, upon the full consideration of the circumstances, guiding itself by the principles and observations of that high authority, so far as they are applicable to the present case, that demurrage according to the scale established in the eighth article of the Regulations for the Mixed Commission, shall be charged to the account of the captors from the 18th August, being the court day upon which they were cited by monition to appear and show cause against the claim, such demurrage to be calculated from that day exclusive, to the 5th of October the day of this decision, inclusive.

The burthen of the vessel being 143 tons, the daily rate of demurrage to be allowed is 6*l.* for each day, which being computed for forty-eight days, gives an amount of 288 *l.*

The Court is more particularly induced to form the last-mentioned determination, by the consideration that in the deficiency of proofs on both sides, touching the most material branches of the compensation claimed, while some compensation appeared to be justly due, and the Court was not put in possession of the means to ascertain how much, an amicable and equitable arrangement between the parties, to which the Court would have given all due facility, must be considered as the most appropriate mode of doing justice in the case.

It is now matter of necessity to decide upon the first head of claim, the compensation due for abstraction and deterioration of goods of the owner's cargo, and of the master's private adventure.

On one of the branches into which this head of claim divides itself, that of deterioration, the Court adverting to the report of the commissioners of inspection, conceives that the decay must have taken place before the capture, or if it took place since, considers the master himself culpable in not employing proper caution to guard against the effects of the weather penetrating to the goods. The evidence of Mr. Hannah confirms the opinion of the Court in this view; all demands for deterioration are therefore disallowed.

The other branch of this head of claim is the part of this case upon which the Court has from the commencement felt itself under peculiar difficulties, through the want of information to assist the inquiry into the amount of compensation justly due. It has been proved on the part of the claimant, that the goods as charged in the accounts annexed to the claim, were embarked and were actually on board at the

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time of the capture, that the prices are those of the original invoices, which invoices have come under the view of the Court, that the deficiencies have taken place since the capture, and as the claimant says, are to be attributed to the captors. In support of this last allegation, the claimant mentions special instances of detecting the people of the prize crew in acts of depredation, and his having made complaint to the prize master. The prize master contradicts the allegation of complaints, in a general sense, but admits one instance of complaint, and one instance of detection.

The clerk of the Gaviao proves that the goods were all on board at the capture, that the deficiencies took place since the capture; that he heard the master of the Gaviao complain once to the prize master that a piece of his goods was taken from the hold into a launch, but he does not know himself how to account for the deficiency.

The surveys made by order of the Court, showed that an actual deficiency of a considerable amount existed, but it was difficult in the extreme to ascertain the precise description of the piece goods which constituted the principal part of the cargo and of the claim.

A disposition was expressed to make some reduction in the total amount of the articles, as has been done on all the other heads of compensation; but on referring to the decisions on those heads, it was found that there was particular evidence to direct and guide the adjudication in the deductions made and the amounts severally decreed. No general principle of curtailment or allowance had been recognized, nor any settled proportion given or deducted. A specific sum of 500 *l.* was then proposed for the master and owner conjointly, but this was found subject to the same objections. It might have been thought sufficient to satisfy the claimants, and might have been so accepted, if offered by the captors; but the Court could not chaffer and make bargains with the claimants, as the captors or an authorized agent on their part could have done. After much further deliberation and discussion, it seems at last most consistent with reason to allow the claimant the whole demand for actual loss, as a commensurate actual deficiency has been proved by the surveys executed under the direction of the Court, and as no legal ground, no certain reason appears for making a reduction.

The owner is therefore allowed for abstraction of his cargo, according to the account before the Court, 493 *l.* 7 *s.* 10  $\frac{1}{2}$  *d.*

And the master is allowed for abstraction of goods belonging to his private adventure, according to the account before the Court on that behalf, 223 *l.* 0 *s.* 3  $\frac{1}{2}$  *d.*

A charge of 37 *l.* 10 *s.* for forty dozen of sausages, said to be included in the private adventure, is disallowed. The Court considers that the utmost extent of the known partiality of Portuguese marines for this article of luxury could not well have exceeded the quantity already comprehended in the compensation for cabin stores.

A charge of 22 *l.* 10 *s.* for sword belts is also disallowed; these articles being found in the list of the goods sold at St. Thomas's.

The Court, or rather the British commissioners, having caused the large and ordinary water casks, beyond the number necessary for the use of the crew, to be landed, and also the boilers, false decks, and other articles of outfit for the Slave Trade, in order to guard against a shipment of slaves in the voyage down the coast; the British commissioners have undertaken to obtain compensation for those articles at the appraised value, at the charge of the British Government.

The value appraised is 65 *l.*

Sierra Leone, October 13, 1821.

(signed) *Edward Fitzgerald.*

V. S.—Sierra Leone, October 27, 1821.

The disallowance for sword belts was subsequently reversed, on the claimant showing that he had already made the deduction for the belts sold at St. Thomas's. The charge allowed for these articles is 16 *l.* 13 *s.* 4 *d.*

The Court further awarded to the claimant, on account of his costs of suit, the sum of 44 *l.* 13 *s.*

(signed) *Edward Fitzgerald.*

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Appendix, (C.)

Sir,

Elgin, April 15th, 1822.

IN answer to your letters of the 9th and 10th, I have to state, that as near as I can recollect, the cargo of the Gaviao consisted as follows: Six or eight bales of coarse striped baft, two bales red flannel caps, one box of coarse hats, and five or six pipes of aquadante, which latter were taken on board the Tartar at Fernando Po: she had also on board about fifteen casks of powder, a large quantity of Cassada flour,

flour, jerk beef and cocoa nuts, a number of iron shackles, a large copper boiler, and about twenty tons of water casks.

When the *Gaviao* was taken possession of, a pilot was sent on board by the king of Calabar to take her down that river, and when he had done so, he received fifty pieces of baft and three gallons of spirits from the cargo of the *Gaviao*: this is the only part of the cargo that was made use of to my knowledge, none having been touched while I had charge, from the 16th April till the 25th June, when she was taken possession of by the marshal of the coast at Sierra Leone.

There was no private venture on board belonging to the master that I know of; if there had been any, I think it must have been disposed of before he came to Calabar, as he had a quantity of gold in his possession, which he said belonged to himself; and he said two or three of the domestic slaves on board were his also.

When the *Gaviao* was captured she had on board some hogs, not exceeding twelve, and three or four dozen of fowls; and as the Tartar's people in the boats were only victualled for three days, it became necessary, as we were a week up the river, to use, I think, three of the hogs, some fowls, and a little rice, also some spirits, for the purpose of victualling the men; and on the passage to Sierra Leone there was a quantity of the Cassada and jerk beef used for feeding the negroes between the 10th of May and 17th June, our arrival at Sierra Leone; a list of which (provisions used) I delivered to the registrar of the Court, and also gave the Portuguese master a certificate at sea, showing the necessity of using them, both agreeable to Sir George Collier's orders.

As the people belonging to the Tartar, who were with me in the *Gaviao*, were victualled for eight weeks, it was not necessary to use any of her provisions for them; and whatever was used of the cabin stores, or live stock killed, it was by the direction of the Portuguese captain. I do not recollect admitting in my evidence that any of the stock was used by myself, or the men under my charge, excepting one pig, which I sent on board the *Constantia*, to Mr. Elliot, the day we sailed from Fernando Po, and which I stated to the Court; nor was I ever called upon to say what I thought the cargo worth, or indeed asked any question about the vessel, until two months after she had been delivered up to the Portuguese: it was then the Portuguese captain presented his claim for damages, with an inventory of the goods he said were missing, the most part of which I considered to be false, and gave my evidence accordingly; many of the articles mentioned were not on board the vessel at the time of capture, I am positive.

It was during *the trial of the Gaviao* that I expressed a wish to be called upon to give my evidence, I think, to Mr. Woods, the registrar, who told me that he thought it would be of little service, as all the Portuguese had sworn so positively; and as to the people (Portuguese) who came in the *Thistle*, and those in the *Gaviao*, they were permitted to mix together as they pleased; and as an idea of the evidence the Portuguese captain gave, Mr. Altavilla, the commissioner, told me he believed he was a great rascal, and that he would represent him to his government as such.

There was an anchor and about thirty fathoms of grass cable lost during a tornado at Sierra Leone; the anchor was much worn, might be about 7 cwt. and with the cable, which was quite rotten, would, I think, be worth about 10*l.* in Africa.

The above is, I think, all my memory can furnish at present, and which I hope will be of some service.

I am, Sir, your very obedient humble servant,

To Thomas Collier, Esq.

(signed)

*Ja<sup>s</sup> Hannah.*

#### Appendix, (D.)

Sir,

Sierra Leone, 18th January 1822.

IN the month of December last, I succeeded in procuring from the Commission Court the enclosed copy of the arbitrator Fitzgerald's decision in the case of the *Gaviao*, and this document is the only official information received by me regarding that vessel, subsequent to the departure of Sir George Collier from this coast.

My letter to Sir George, under cover to you, of October last, will have made you acquainted with the proceedings taken by me up to that period.

The extraordinary attempt of the arbitrator in his decision to attribute blame to me, my correspondence will, I imagine, sufficiently answer; I arrived here from to windward on the 13th September, which certainly was quite time enough to have

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have rendered, in any open court, the master of the Gaviao's villainous and false depositions futile: previous to that date nothing had been determined on, yet I could not obtain permission to act in opposition to the claims for damages; but Sir George himself can without difficulty judge of all the transactions in this case: for myself, I feel so heartily sick and disgusted with the Commission Courts, that I am determined not to interfere further with them; this is the more painful, considering that on the part of the foreign judge no person ever experiences difficulties.

The decision enclosed points out in what manner a person's character may be undermined: I do hope, however, Sir George and the friends of Africa may succeed in yet establishing this Court on a proper and just basis.

The hurry of public business prevents me from writing in the detailed manner I could wish, either to yourself or Sir George; he shall however hear from me fully after the Iphigenia arrives.

Hagan has brought in a prize with sixty slaves, not yet condemned; the rest of the squadron have been lying here since November.

Believe me to be your most obedient humble servant,  
To Thomas Collier, Esq. Temple. *J. O'N. Walsh.*

Sir,

Freetown, Sierra Leone, 10th Nov. 1821.

As the agent of Sir George Collier and the officers and crew of His Majesty's ship Tartar, I petitioned on the 6th of last month for copies of the proceedings taken in the Mixed Commission Court in the case of the Portuguese brig Gaviao, or to be otherwise informed thereof; you were pleased next day to inform me that the Court had granted the prayer of my petition. Previous to the sailing of the Sussex on the 13th ultimo, I expressed my anxiety to see the records of the Court, or to be permitted to have copies taken, in order that I might be enabled by that vessel to give Sir George Collier some information on a subject which, as it has turned out, must necessarily interest him much, but I was not successful.

The verbal information I received from you of the restoration of the Gaviao, with damages by the Court, and which, in fact, is the only knowledge I have yet been able to attain, has of course made me doubly anxious to be informed of the proceedings taken; for that purpose I have frequently applied at the office of the Court, but am to this day kept in ignorance of what has been, or what is to be done in regard to the Gaviao.

Under these circumstances, novel and unprecedented as they are, I trust you will feel the necessity under which I am now placed, of requesting from you, as the organ of the Court, a final answer, whether it is intended to grant me the documents and information so long waited for. I have the honour to be, &c.

(signed) *J. O'N. Walsh,*

Agent to the officers and crew of H. M. S. Tartar.

To James Woods, Esq.

Acting Registrar to the British and Portuguese Mixed Court.

Sir,

Freetown, Sierra Leone, 12th November 1821.

IN answer to your letter of Saturday last, the 10th instant, I have to recal to your recollection what I mentioned in the previous verbal communication to which you allude, "that the opportunity of taking the copies in the case of the Gaviao, as allowed by the commissioners, would be afforded to you as soon as the copies necessary to enable the claimant to depart hence, and those required for the information of the British and Portuguese governments should have been made out."

If in the dispatch of the papers yet remaining to be copied for these prior occasions, any facility can be afforded to the object of your letter, I will not fail to give you the earliest intimation, as I have already assured you.

Should a copy of the certificate of restitution and award granted to the claimant be, in the mean time, useful to your purposes, you may be furnished with it on an early day.

I have the honour, &c.

(signed)

*James Woods,*

Acting Registrar Mixed Commission.

To J. O'N. Walsh, Esq.

Agent to the officers and crew of H. M. S. Tartar.

Sir,

Sierra Leone, 13 October 1821.

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relating to the brig  
"Gaviao."

AT the period of your leaving the colony you desired me to attend to the proceedings instituted in the British and Portuguese Mixed Court against the slave brig Gaviao, which were then going on; and as I was aware of the description of evidence that might be expected from the master and sailors of that vessel, unless special interrogatories would be put to them immediately after their primary examination, I applied for permission to that effect; this, however, could not be given until the witnesses were all examined; and on the 23d June, the registrar desired me to pray publication; my note to him enclosing the petition for that purpose is enclosed, from it you will observe I was rather surprised at the pleasing change of the practice of the Court; it was not until the following 29th, that I obtained copies of the depositions taken, and a glance at the vessel's papers, in the registry of the Court. I had hoped that even then my interference might have proved beneficial; but on examining the evidence, and reviewing the whole proceedings, I did not hesitate to address the letter, a copy of which is enclosed, declining (for the reasons therein specified) further to interfere with the matter; and I doubt not, from your own knowledge of this very close Court, that you will feel satisfied I could not pursue any other course, any exertions on my part, at that stage of the proceedings, would have been nugatory and useless, and would merely have served in the event of the vessel's restoration (which I did not then expect), to attach some degree of responsibility to the seizors, unaccompanied by any adequate benefit.

Since that period I am totally unacquainted with the proceedings of the Court, in regard to the Gaviao, although I petitioned on the 6th instant "for copies of the proceedings taken, or to be otherwise informed thereof," the prayer of the petition is granted; but, after repeated applications to the registrar, I find I will not be able to procure them in time for this vessel. I have heard, but not officially, the vessel is restored with damages; the British arbitrator being called in; but I imagine you can obtain full information from the Secretary of State, to whom the Commissioners will of course transmit their decision by the next opportunity. I will forward such information as I can glean.

In the mean time, I have, &amp;c.

(signed) *J. O'N. Walsh.*

Sir George Collier, Bart.

Sir,

Sierra Leone, 25 June 1821.

AGREEABLY to your suggestion in your note of Saturday morning last, that I should pray publication of the examinations, &c. taken in the case of the Gaviao, I now enclose a petition to that effect, which I request you will lay before the Court.

Your communication, that publication may be arranged in the manner most convenient, is to me, as the agent of the seizors, especially satisfactory; though I cannot but regret that I was not previously aware of the intention of the Court to relax its former practice on this point, for, in that case, I should have solicited permission to inspect the examinations one by one as taken, and so have put special interrogatories if possible on the instant. In regard to the error which you correct, the circumstances of publication never having taken place in this Court before, and of my ignorance as to the gratifying change above referred to in its practice, will easily account for the impression on my mind.

I beg leave also to observe, that I cannot concur with you in opinion that publication should not take place until the examinations are closed, unless indeed is meant, the form of praying publication in admiralty courts, when the parties are previously in possession of such parts of the proceedings as they require.

I have, &amp;c.

James Wood, Esq. Registrar,  
&c. &c. &c.

(signed)

*J. O'N. Walsh,*  
Agent and Attorney.

Sir,

Freetown, June 29, 1821.

HAVING this morning obtained a copy of the depositions taken in the case of the Gaviao, and also a sight of the papers of that vessel filed in the Court, and bearing in mind the irreparable inconvenience resulting to the case of that vessel, as it regards the captors, from the circumstance of the witnesses being permitted to go at large, and to have free communication with each other, while at the same

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time I was debarred a perusal or copy of their depositions, until the examinations were closed, thus in a great measure frustrating any advantage to be derived from special interrogatories.

Under these circumstances, I am of opinion, that interference on my part, in this stage of the proceedings, could only tend to add to the mass of perjury and inconsistency already before the Court, and at the same time attach a degree of responsibility to the captors, without (for the reasons above referred to) any adequate advantage resulting to them. I came to this conclusion with the more satisfaction on observing that the very papers of the vessel furnish proof of the illegality of the voyage, and even leaving out altogether the shipment of slaves at Calabar, those taken on board at St. Thomas's and Princes Islands, I should imagine conclusive, particularly as those taken in at the latter place were brought on board in irons; the boy Felix can testify to this point, and if the marshal of the Court has examined the brig, he can state whether she was fitted for slaves or otherwise. It therefore only remains for me to repeat that I do not feel justified in interfering in the matter, leaving it, as I do, with confidence in the hands of the judges.

I have, &c.

J. Wood, Esq. Registrar,  
&c. &c. &c.

(signed)

J. O. N. Walsh,  
Agent and Attorney.

Sir,

Freetown, Sierra Leone, 16th November 1821.

I BEG to acknowledge your letter of the 12th instant, and in doing so, I conceive I should be wanting in my duty, as agent to Sir George Collier, if I omitted remarking on certain observations contained therein, and, indeed, on the general tenor of that communication.

That you observed in the conversation alluded to in your letter, "that I should receive the documents and information required in the case of the Gaviao, as soon as the necessary copies were completed for the British and Portuguese governments," I readily admit; you will also recollect, that nothing occurred then to remove the impression on my mind, that I should have full information previous to departure of the ship Sussex for England.

Had you stated to me, at that time, that I must also wait until the claimant received the copies necessary to enable him to depart hence, it would necessarily have satisfied me that the quantum of damages was already ascertained; whereas I could only deduce, from the limited information received from you, that the vessel was restored, certainly with damages, but that the amount was not fixed; and I acted under that impression. You may, no doubt, have made the observation, but it certainly was not so understood by me.

It is only a few days since that I learned with surprise the final arrangement of the damages, and this through the medium of a naval officer from his Most Faithful Majesty's commissary judge.

I should imagine it must be obvious to you that the mere transmission, on my part, of copies of papers, or of other information respecting the Gaviao to the captors, however desirable, could not be to me the principal object; it was my duty to interfere with the Court for mitigation of damages, and to take such measures as the interest of my employers might dictate; but the darkness in which I have been kept, in respect to the proceedings, and particularly since the 6th of last month, when the prayer of my petition was said to be granted, has of course rendered my wishes abortive.

My having declined interference when the Gaviao was tried, for the reasons stated in my letter of the 29th June, could not by possibility deprive me of a right to interfere, on the very unexpected event of the vessel's restoration.

I take the liberty of recalling to your mind the prayer of my petition, viz. "Petitioner humbly prays permission to take copies of the sentence, and of the proceedings taken, or otherwise to be informed thereof." The latter part of this prayer would seem to be entirely overlooked; for, as I have observed in a former letter, I have more than once solicited permission even to read the records, and I dare say you will recollect my clerk calling on you a day or two before the Sussex sailed, to request that, in case copies could not then be procured, I might be allowed a perusal of the proceedings: that the perusal was not granted I need not inform you.

In point of fact, the case of the Gaviao resolves itself into a very small compass; that vessel arrived in this harbour in June last, since which time proceedings have been going on from time to time (as far as I know up to this day) in the Mixed Court,  
and

and these proceedings deeply affecting the interest of the captors, yet their agent and attorney, from whatever cause, is still in almost absolute ignorance respecting them.

I offer no apology for the length of this letter, being convinced you will attribute it to the proper motive, a feeling of duty and regard from an agent to his employer's interest.

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I have, &c.

J. Wood, Esq. Acting Registrar,  
&c. &c. &c.

(signed)

*J. O' N. Walsh,*  
Agent and Attorney.

Sir,

Freetown, Sierra Leone, 16 November 1821.

I TAKE leave to acknowledge your letter of this day, and in replying thereto, I trust you will not consider me abrupt in acquainting you, that detailed and argumentative correspondence with suitors or their agents, is not in my opinion consistent with the course of my duty as acting registrar of the Court of Mixed Commission.

The information which I understood you desire, could not have been given to you sufficiently early to enable you to communicate it to the captor of the *Gaviao*, by the ship *Sussex*.

On the obvious conception of your duty it is not for me to offer any remark, but as you have appealed to me on that point, I must say, as of a matter of fact, that the object of your interfering to mitigation of damages, did not enter into my mind as being on your view, when you conversed with me on the subject of your petition; neither does that object accord with my present recollection of what passed on that occasion.

I have, &c.

J. O' N. Walsh, Esq.  
&c. &c. &c.

(signed)

*James Wood,*  
Acting Registrar to the Mixed Court.

#### Appendix, (E.)

DIGBY MARSH, late lieutenant of His Majesty's ship *Tartar*, came before me, one of His Majesty's justices of the peace for the Queen's county, Ireland, and maketh oath on the Holy Evangelists and saith, that on the night of the when His Majesty's ship *Tartar* was off the mouth of the Old Calabar river, on the coast of Africa; he, this deponent, was ordered by Sir George Collier to proceed with a division of boats up the said river Calabar, for the purpose of capturing any vessels found in the act of an illicit Slave Trade; and that on entering said river, this deponent received information from a pilot of the river Calabar, that two vessels were up said river, carrying on an illicit trade in slaves. And that then the said deponent proceeded with the boats under his command up the said river Calabar, as far as Duke Ephraim's town; when deponent and the crew under his command, boarded the *Gaviao*, a Portuguese slaving brig; that on searching said brig deponent found she had on board three male negroes above the number stated in her roll d'equipage, and of which no satisfactory account could be given.

And this deponent further swears, that on searching the *Gaviao*'s hold, one of the marines belonging to the *Tartar* brought in his presence a negro, who said he found part of the crew forcing a pair of trowsers on him, in order to make him have the appearance of a domestic servant, which deponent is convinced was done with the intention of deceiving him; as the said negro, when questioned by the different interpreters, could not speak any of the languages used on the coast. And this deponent further saith, that he received information, that Duke Ephraim had sold to the captain of the said *Gaviao* several male negroes, the day previous to the night he boarded her. And said deponent also saith, that being obliged to go in search of the other slave vessel, he left Lieutenant Graham in charge of said slave brig, *Gaviao*, and that on rejoining the said vessel and Lieutenant Graham, he, the lieutenant, informed said deponent that he had been to see Duke Ephraim, and the said Duke Ephraim had told him, that his people had found in the bush two of the negroes he had sold to the captain of the said *Gaviao* the day before. And this deponent further saith, that the *Gaviao* was found in every respect fitted for carrying on the Slave Trade; having her slave coppers on board, her slave decks laid, and a large supply of slave irons, such as deponent has always seen used for the purpose of securing slaves in the different slave ships that have come under his inspection.

(signed)

*D. Marsh.*

Sworn before me at Mountruelick, in the  
Queen's county in Ireland, this twenty-  
eighth day of March 1822.

(signed)

*John Beldwin,*  
Magistrate for Queen's County.

PAPERS  
relating to the brig  
"Gaviao."

Dear Sir,

Dublin, 28th March.

IN consequence of being away from Dublin, I did not receive yours for some days after it arrived; I have therefore lost no time in forwarding to you the statement you require, as well as my memory will permit, so long a time having elapsed: as to the cargo of the *Gaviao*, I can tell you merely of what it was composed; but as to its value, I could not say; she had either eight or nine casks of aqua ardente or spirits, and some small bar iron, perhaps three hundred, if so much, of from four to five feet long; this was all the *cargo* she had in her hold; I did not find out her having any tobacco on board; in her cabin she had the principal part, which was composed of the coarse cotton stuffs, in pieces of different descriptions, with a few cases of trade looking-glasses and knives. We used, I think, for payment of her harbour duties, about thirty pieces of the stuffs, and three or four gallons of the spirits; this also includes the payment of the pilot that we had to get the vessel down the river. I have no idea of the day of the month on which this happened, as some of my things have not yet arrived from Plymouth, consequently have not a paper to assist my memory.

Thomas Collier, Esq. Temple.

I am, Sir, yours very sincerely,  
(signed) *D. Marsh.*

Appendix (F.)

Port of Liverpool.

PERSONALLY appeared before me, Rev. Jonathan Brooks, one of His Majesty's justices of peace for the county of Lancaster, *John Burrell*, master of the British ship *Jane* of the port of Liverpool, trading between the said port and the western coast of Africa; who, having been first duly sworn on the Holy Evangelists, voluntarily deposed, that during the months of March and April last past he, the said *John Burrell*, being then with his said ship the *Jane* lying in the Calabar river, on the eastern coast of Africa, was informed by a native chief, called Duke Ephraim, and verily believes the same to be true, that he, Duke Ephraim, had sold three African negro slaves for Portuguese account, and that the said slaves were actually shipped on board the Portuguese brig *Gaviao*, then only lying in the Calabar river, as part of the cargo of the said brig. Deponent further states, that on or about the 9th April 1821 the boats of His Majesty's ships *Tartar* and *Thistle* having entered the Calabar river for the purpose of boarding all vessels known to be engaged in the African Slave Trade, two of the aforesaid slaves, above stated to have been shipped in the Portuguese brig *Gaviao*, were re-landed in the bush or woods by the Portuguese, for the presumed purpose of eluding the vigilance of the said boats of His Majesty's ships of war above named. This deponent further states, that the Portuguese schooner *Constantia* lay in the Calabar river for a term of about six months, taking in an entire cargo of slaves. Deponent declares, that in consequence of the prevalence of the trade in negroes, carried on by the Portuguese and Spaniards, his voyage was protracted for two months beyond the usual time of loading. Deponent further states, that at the time above named, six Portuguese and Spanish vessels were loading in the Calabar river for slaves. Deponent is further of opinion, that the lawful pursuits of British traders (particularly of those resident at the port of Liverpool) with the parts of the coast contiguous to the Calabar river, are materially obstructed and injured by the continued prevalence of the Portuguese Slave Trade in that river and the neighbourhood; and that all legitimate commerce with that part of the coast must be evidently abandoned, unless efficient means be taken to enforce the strict observance, by the Portuguese and Spaniards, of the treaties subsisting between Portugal and Great Britain, relative to the Slave Trade.

(signed) *John Burrell.*

Sworn at Liverpool, in the county palatine of Lancaster, this 23d day of August, in the year 1821, before me, the Rev. Jona. Brooks, one of H. M. justices of peace for said county.

(signed) *Jona. Brooks.*

Port of Liverpool.

I, RICHARD CUMMINS, chief mate of the British ship *Jane*, of the port of Liverpool, do voluntarily make oath and declare, that in the month of April last past, being then on board the said ship lying in the Calabar river, on the coast of Africa, and having frequent opportunities of intercourse with the shore, I did, on one of those occasions, enter into conversation with a native chief called Duke Ephraim, who informed me, that on the day preceding that on which we were conversing he had shipped on board the Portuguese brig *Gaviao*, then also lying  
in

in the Calabar river, three African negro slaves, as part of her cargo. The said Duke Ephraim further expressed to me great regret that the said Portuguese brig Gaviaõ had been boarded by the British men of war's boats subsequent to the shipment of the three slaves, as he should thereby be prevented from receiving payment for the said slaves by him delivered.

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relating to the brig  
"Gaviaõ."

I further declare, that I have made four several voyages from Great Britain to the Calabar river, and that on all those occasions numerous foreign ships have been lying on the said river, taking in cargoes of negro slaves.

I further declare my opinion, that the legitimate trade carried on with the parts of the coast of Africa, contiguous to the Calabar river, is materially obstructed and injured by the continued prevalence of the foreign negro Slave Trade.

(signed) *Richard Cummins.*

Sworn at Liverpool, in the county Palatine of Lancaster, the 11th October 1821, before me, one of H. M. justices of peace for the said county.

(signed) *John Ashton Casee.*

Port of Liverpool.

I, THOMAS HENRY ASHTON, of Liverpool, in the county of Lancaster, acting chief mate of the British ship Ottawa, of the aforesaid port, do voluntarily make oath and declare, that in the month of April last past, being then on board the said ship lying in the Calabar river, on the coast of Africa, I saw a canoe returning from the bush to the Portuguese brig Gaviaõ, also lying in the said river, which canoe, I have reason to presume, had been landing slaves from the said Portuguese brig, for the purpose of eluding the vigilance of the boats of H. M. ships Tartar and Thistle.

I further declare, that during the time I remained in the river aforesaid, numerous French, Portuguese and Spanish vessels were lying in the said river, taking in cargoes of slaves. I am further of opinion, that the legitimate trade with the parts of the African coast contiguous to the Calabar river, is materially obstructed and injured by the prevalence of the African negro Slave Trade.

(signed) *Tho<sup>s</sup> H<sup>y</sup> Ashton.*

Sworn at Liverpool, in the county palatine of Lancaster, this 5th October 1821, before me, one of H. M. justices of the peace for the said county.

(signed) *John Ashton Casee.*

— No. 3. —

Copy of a Letter from Sir George R. Collier, Bart. and K. C. B. late Commo-  
dore on the coast of Africa, dated the 22d May 1822, and addressed to  
J. W. Croker, Esq.

Sir,

Knowle Cottage, Exeter, 22 May 1822.

SINCE I had the honour to transmit to their Lordships the statement contained in my letter of the 4th instant, relating to the Gaviaõ, detained on the northern coast of Africa for slaving, I have had an opportunity of perusing the "papers relating to the Slave Trade, recently printed by order of the honourable House of Commons."

Among these papers I observe a letter from Messrs. Gregory and Fitzgerald, the British commissioner and arbitrator of the Mixed Court at Sierra Leone, referring especially to the case of the Gaviaõ; it is dated 25th August 1821, and is to be found in pages 67 to 69 (of part 3d) of the printed correspondence alluded to.

I shall not detain their Lordships upon the first assertion contained in the official statement in question; viz. "That it was clearly proved that no negro was taken on board at Calabar."

Their Lordships are already aware of the evidence tendered by me in opposition to this assumption; viz. the spontaneous and impartial testimony of the masters of British trading vessels, and the letter of the chief of Old Calabar (Duke Ephraim) claiming restitution of three slaves sold to, and shipped on board the Gaviaõ, the day previous to her capture.



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relating to the brig  
"Gaviao."

The next six paragraphs of the statement of Mr. Fitzgerald relate to the negroes taken on board the Gaviao at St. Thomas's and Princes Island, *north of the Line*, "for the alleged purpose of assisting in the labours of the ship," such assistance being pretended to be necessary. But, that they *were slaves* at the time of the Gaviao being seized, cannot be questioned; for it is admitted, that "the master being interrogated upon this point, said, he described these negroes as free, because he *intended* to give them their freedom!"

Extraordinary as this intention appears, it seemed to have obtained full credit with Mr. Fitzgerald.

The commissary judge, Mr. Gregory, however, states that, "upon a general view of the case, there were numerous proofs of an intent of illegal slave trading; and, considering the denomination of free men as applied to the negroes *bought as slaves* at Princes Island to have been designed merely as a deception to cover a destination of those negroes for the traffic, he was of opinion that those four negroes were illegally embarked at Princes Island, consequently, in his opinion, the vessel ought to be condemned as lawful prize."

It is asserted that the negroes embarked in the Gaviao at St. Thomas's and Princes Islands, "were taken on board with the consents of the local governments, which consents appeared written on the face of petitions presented by the master for the purpose of obtaining them."

It may be possible that such a petition may have been presented to the Mixed Commission, and that the local governments at Princes Island and St. Thomas's may have appeared to give their consent to the embarkation of so many slaves; for unhappily the heads of these local governments are the principal slave factors there; but unless the identical document above referred to was one amongst those delivered into the Court from myself, I have little doubt of the whole being *forgery*, as it is known to be the universal custom of slave masters to keep false logs, and have false papers; and from the ample time the master of the Gaviao had, if further documents than those he delivered me were likely to assist him, he would find the means to supply them.

I have sufficient knowledge of the Portuguese language to read and understand it, and I can take upon myself to assert, to the best of my belief, that no such paper was delivered to me from the Gaviao, as the one stated to have been delivered into Court, bearing a certificate, "that the excess of slaves on board the Gaviao was known to and sanctioned by the authorities at Princes or St. Thomas's Islands." But on the contrary, I can solemnly testify that the original muster roll of the Gaviao with which she cleared from Pernambuco, countersigned by Colonel Zavier at Princes Island, as being correct, the very day of her departure for Calabar, enumerates by name only four negroes as domestic slaves in addition to her crew, which consisted of fourteen or fifteen persons; and I most particularly called the attention of the Mixed Court to this circumstance, in order to show that the excess of slaves found on board beyond the four already mentioned, could only have been so for the purpose of trade; and that they must have been purchased or introduced clandestinely into the vessel.

Indeed to satisfy myself more perfectly on this point, I desired the master and the supercargo to muster their crew and slaves, which muster was duly signed in presence of one of the lieutenants of the Tartar; this I compared with the muster-roll of the Gaviao, and pointed out to her master the difference, observing to him that it appeared he had not only a larger number of individuals than composed his original crew, but also several slaves more than those mentioned in his clearance from Princes Island. I desired him to account for this, which he did by very audaciously charging me with having destroyed the document relating to the excess of slaves, if I had it not in my possession.

After stating Mr. Fitzgerald's impression that the Gaviao ought to be restored, the statement continues, (in page 69,) "Mr. Fitzgerald, however, agreed fully with Mr. Gregory, that there were proofs of an intent of illegal slave trading, and that the vessel went into Calabar in pursuance of that intent, and for that purpose. This intent, and the situation in which the vessel was found, should, he thought, debar the claimant from damage, although no actual trading in slaves had been proved."

Yet in the next paragraph but one, Mr. Fitzgerald adds, "Upon further deliberation, it appeared expedient to defer the consideration of demurrage and damages until the claimant should apply to the Court on that head."

Thus, at one moment, Mr. Fitzgerald decides, the master of the Gaviao was not entitled to any damages, and in the next he invites the demand; and, unsupported by

by one solitary precedent in the British court of Admiralty since its decrees have been recorded, he grants demurrage for a period of seven weeks, commencing after the vessel had been restored and in possession of the slave master.

The whole of the proceeding appears, to my humble apprehension, so full of contradiction, that it might be difficult to believe the reasoning and the result could come from the same person, unless it were authenticated so indisputably as not to admit of question.

I presume, therefore, to hope that so far from the master of the *Gaviao* being considered as justly entitled to the great rewards adjudged to him, it will rather be thought from the several facts as admitted by the arbitrator Fitzgerald, that they of themselves afforded grounds of condemnation both of the *Gaviao* and her cargo; and that in the seizure of the vessel it will seem to their Lordships I was fully justified, which, whatever may be the personal consequences to myself, will be relief and satisfaction to me.

I am so very sensible of the trouble I have given to their Lordships, and to you, Sir, upon the occasion in question, that I will only add, that had the *Gaviao* been restored without the heavy damages awarded, reasonably as I might have expected her condemnation, I never should have presumed to have made observation or complaint.

I have the honour, &c.  
(signed) *George R. Collier*,  
late Commodore on the coast of Africa.

J. W. Croker, Esq.

PAPERS  
relating to the brig  
"Gaviao."

Copy of Declaration of Captors of the Spanish schooner "*Anna Maria*," detained by His Majesty's ship *Tartar*, in March 1821, in the river Bonny, on the coast of Africa, dated the 26th March 1821.

PAPERS  
relating to the  
schooner  
"Anna Maria."

Sir, His Majesty's ship *Tartar*, off Bonny, 26th March 1821.

**H**EREWITH I take leave to forward you a declaration made by me, agreeably to the orders of the Right Honourable the Lords of the Admiralty, and the treaties for abolishing slave trading, also a list of papers belonging to the Spanish schooner *Anna Maria*, therein described.

In doing this particular act of duty, I feel I should ill fulfil the duties falling upon me, from my rank and station on this coast, if I did not describe the horrible state which this vessel was in when visited by British officers.

The tonnage of the *Anna Maria* is under 200; yet had she on board nearly 500 living souls!

The intense heat and filthy state of the slave rooms (only 2 feet 11 inches high) must have made the condition of the poor miserable beings, there confined, approach nearer suffocation than any other.

Clinging to the gratings to inhale a mouthful of fresh or pure air, and fighting with each other for a taste of water, showing their parched tongues, and pointing to their reduced stomachs, as if overcome by famine, for although the living cargo had only been completed the day before, yet many who had been longer on board, were reduced to such a state as skeletons, that I was obliged to order twelve immediately to this ship to be placed under the care of the surgeon, and the day following, one hundred more, to afford the rest the chance of surviving the passage to Sierra Leone!

In short, the crowded state of the vessel, the dirt and filth inseparable from such a state, the sickening and desponding appearance of most of the wretched victims, confined more loathsomely and more closely than hogs brought to a morning market for sale, was so appalling and distressing to our feelings, as to cause our wonder and astonishment to cease at the maddening act of self-destruction which had occurred to some by throwing themselves overboard, a prey to the sharks in attendance, rather than endure a continuance of that misery they had only tasted of, or perhaps rather than quit the land dear to them by many unknown ties.

I have the honour to be, Sir, your most obedient humble servant,  
(signed) *George R. Collier*, Commodore.

The Registrar of the British and Spanish Mixed  
Commission Sierra Leone.

## 26 V.—FURTHER PAPERS RELATING TO THE SLAVE TRADE.

PAPERS  
relating to the  
schooner  
"Anna Maria."

(First Enclosure.)

I, THE undersigned, being Captain of His Majesty's ship Tartar, and Commodore of His Majesty's ships and vessels on the western coast of Africa, do declare that the Spanish schooner Anna Maria, Juan de la Roche, master, and Antonio Vinente Armador, owner, said to be bound from St. Jago de Cuba to Princes Island, was chased and boarded by signal from this ship, by boats sent from His Majesty's brig Thistle, and also from His Majesty's ship Tartar, by proper and authorized officers, in the night of the 23d March 1821, in the east channel of the river Bonny, in about 4 deg. 26 min. north latitude, and after a discharge of small arms she surrendered.

At the time of capture the number of slaves were said to be between 400 and 450, some of which number threw themselves overboard, and were destroyed by sharks!

I further declare, that from the extremely crowded state of the slave-rooms, it is utterly impossible to count the number living on board!

I further declare, that from the belief I have of this schooner being the pirate schooner described in a letter to me from the Lords of the Admiralty, as well as from a threat held out by one of the sailing masters, that the vessel should not reach Sierra Leone without a struggle, and this confirmed by a wanton firing of musketry from the cabin, after the vessel was boarded by Mr. Lyons of the Thistle, I have thought it necessary to remove from her all suspicious and dangerous characters, being a large proportion of her crew; and I further declare it to be my intention to prosecute the vessel for piracy on my arrival at Sierra Leone, after the slaves shall be condemned.

Given under my hand, on board His Majesty's ship Tartar, off the River Bonny, the 26th day of March 1821.

(signed) *George R. Collier*, Commodore.

(Second Enclosure.)

List of Papers found on board the "Anna Maria," Spanish slaving schooner.

- N<sup>o</sup>
1. } Substitutes for passports (given contrary to the treaty).
  2. }
  3. Bill of lading.
  4. List of cargo.
  5. List of crew.
  6. Sailors articles.
  7. Agreement between Captain La Roche and W. F. Gayman (mate), to receive two dollars per head for each slave.
  8. Captain and superior officers engagement with the public authorities.
  9. Log kept by Captain La Roche.
  10. Bill of lading.
  11. Account (in Spanish) of the cargo.
  12. Paper proving that Matthew Smith is the same person calling himself Matteo Sanches, and absolute captain, as well as supercargo of the schooner.
  13. Document, proving that the Artigas (or independent) flag had been made use of, or that the vessel is acting as a letter of marque, without any authority.
  14. Document, proving that Messrs. Wright & Skelton, of Cuba, are in truth the owners of the vessel Anna Maria, and that Juan de la Roche (the master in the muster-roll) is only chief mate.
  15. Log (in English) kept by Matthew Smith, alias Matteo Sanches.
- (A.) to (N.) Papers not relating to the present voyage, found in La Roche's chest.

(signed) *G. R. Collier*, Commodore.



V.

FURTHER PAPERS

RELATING TO

THE SLAVE TRADE:

*viz.*

COPIES OF PAPERS

Relating to the Portuguese Brig "GAVIAO," and  
the Spanish Schooner "ANNA MARIA."

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Ordered, by The House of Commons, to be Printed,  
26 July 1822.

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600.